

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
JOHANNA SOCORRO,

Plaintiff,

**ANSWER**

-against-

Docket No. 08-CV-0134 (LBS)(HBP)

**JURY TRIAL DEMANDED**

CITY OF NEW YORK, et al.,

Defendants.

-----X

Defendant City of New York, by its attorney, Michael A. Cardozo, Corporation Counsel of the City of New York, for its Answer to the Complaint, respectfully alleges, upon information and belief, as follows:

1. Denies the allegations set forth in paragraph “1” of the Complaint, except admits that plaintiff purports to bring the action and proceed as stated therein.
2. Denies the allegations set forth in paragraph “2” of the Complaint, except admits that plaintiff purports to invoke the jurisdiction of this Court as stated therein.
3. Denies the allegations set forth in paragraph “3” of the Complaint, except admits that plaintiff purports to invoke the supplemental jurisdiction of this Court as stated therein.
4. Denies the allegations set forth in paragraph “4” of the Complaint, except admits that plaintiff purports to base venue as stated therein.
5. Denies the allegations set forth in paragraph “5” of the Complaint, except admit that a document purporting to be a Notice of Claim was received by the Comptroller’s Office on January 12, 2007 and that the claim has not been settled or adjusted.
6. Denies knowledge or information sufficient to form a belief as to the truth of the

allegations set forth in paragraph “6 ” of the Complaint.

7. Denies the allegations set forth in paragraph “7” of the Complaint, except admits that defendant City of New York is a municipal entity created and authorized under the laws of the State of New York.

8. Denies the allegations set forth in paragraph “8” of the Complaint, except admits that defendant City of New York is a municipal entity created and authorized under the laws of the State of New York and admits that the City of New York maintains a police department.

9. Paragraph “9” of the Complaint sets forth conclusions of law rather than averments of fact and accordingly no response is required.

10. Denies the allegations set forth in paragraph “10 ” of the Complaint.

11. Denies the allegations set forth in paragraph “11” of the Complaint.

12. Denies the allegations set forth in paragraph “12” of the Complaint.

13. Denies the allegations set forth in paragraph “13” of the Complaint.

14. Denies the allegations set forth in paragraph “14” of the Complaint.

15. Denies the allegations set forth in paragraph “15” of the Complaint.

16. Denies the allegations set forth in paragraph “16” of the Complaint.

17. Denies the allegations set forth in paragraph “17” of the Complaint.

18. In response to the allegations set forth in paragraph “18” of the Complaint, defendant repeats and realleges the responses set forth in the preceding paragraphs inclusive of this answer, as if fully set forth herein.

19. Denies the allegations set forth in paragraph “19” of the Complaint.

20. Denies the allegations set forth in paragraph “20” of the Complaint.

21. In response to the allegations set forth in paragraph “21” of the Complaint,

defendant repeats and realleges the responses set forth in the preceding paragraphs inclusive of this answer, as if fully set forth herein.

22. Denies the allegations set forth in paragraph “22” of the Complaint.

23. Denies the allegations set forth in paragraph “23” of the Complaint.

24. In response to the allegations set forth in paragraph “24” of the Complaint, defendant repeats and realleges the responses set forth in the preceding paragraphs inclusive of this answer, as if fully set forth herein.

25. Denies the allegations set forth in paragraph “25” of the Complaint.

26. Denies the allegations set forth in paragraph “26” of the Complaint.

27. Denies the allegations set forth in paragraph “27” of the Complaint.

28. In response to the allegations set forth in paragraph “28” of the Complaint, defendant repeats and realleges the responses set forth in the preceding paragraphs inclusive of this answer, as if fully set forth herein.

29. Denies the allegations set forth in paragraph “29” of the Complaint.

30. Denies the allegations set forth in paragraph “30” of the Complaint.

31. In response to the allegations set forth in paragraph “31” of the Complaint, defendant repeats and realleges the responses set forth in the preceding paragraphs inclusive of this answer, as if fully set forth herein.

32. Denies the allegations set forth in paragraph “32” of the Complaint.

33. Denies the allegations set forth in paragraph “33” of the Complaint.

34. In response to the allegations set forth in paragraph “34” of the Complaint, defendant repeats and realleges the responses set forth in the preceding paragraphs inclusive of this answer, as if fully set forth herein.

35. Denies the allegations set forth in paragraph “35” of the Complaint.

36. Denies the allegations set forth in paragraph “36” of the Complaint.

37. In response to the allegations set forth in paragraph “37” of the Complaint, defendant repeats and realleges the responses set forth in the preceding paragraphs inclusive of this answer, as if fully set forth herein.

38. Denies the allegations set forth in paragraph “38” of the Complaint.

39. Denies the allegations set forth in paragraph “39” of the Complaint.

40. In response to the allegations set forth in paragraph “40” of the Complaint, defendant repeats and realleges the responses set forth in the preceding paragraphs inclusive of this answer, as if fully set forth herein.

41. Denies the allegations set forth in paragraph “41” of the Complaint.

42. Denies the allegations set forth in paragraph “42” of the Complaint.

43. In response to the allegations set forth in paragraph “43” of the Complaint, defendant repeats and realleges the responses set forth in the preceding paragraphs inclusive of this answer, as if fully set forth herein.

44. Denies the allegations set forth in paragraph “44” of the Complaint.

45. Denies the allegations set forth in paragraph “45” of the Complaint.

46. Denies the allegations set forth in paragraph “46” of the Complaint.

47. In response to the allegations set forth in paragraph “47” of the Complaint, defendant repeats and realleges the responses set forth in the preceding paragraphs inclusive of this answer, as if fully set forth herein.

48. Denies the allegations set forth in paragraph “48” of the Complaint.

49. In response to the allegations set forth in paragraph “49” of the Complaint,

defendant repeats and realleges the responses set forth in the preceding paragraphs inclusive of this answer, as if fully set forth herein.

50. Denies the allegations set forth in paragraph “50” of the Complaint.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

51. At all times relevant to the acts alleged in the Complaint, the duties and functions of defendant’s officials entailed the reasonable exercise of proper and lawful discretion. Therefore, the City of New York is entitled to governmental immunity from liability.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

52. Punitive damages cannot be assessed as against the City of New York.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

53. The complaint fails to state a claim upon which relief can be granted.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**

54. At all times relevant to the acts alleged in the complaint, defendant acted reasonably in the proper and lawful exercise of its discretion.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

55. Defendant has not violated any rights, privileges or immunities secured to the Plaintiff by the Constitution or laws of the United States or the State of New York, nor have the defendants violated any act of Congress providing for the protection of civil rights.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE**

56. Plaintiff failed to comply with General Municipal Law § 50 - e and 50 - i.

**AS AN FOR A SEVENTH AFFIRMATIVE DEFENSE**

57. Plaintiff has failed to comply with Rule 12(b)(5) as service of process was insufficient.

**WHEREFORE**, defendant City of New York requests judgment dismissing the Complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York  
February 29, 2008

MICHAEL A. CARDOZO  
Corporation Counsel of the City of New York  
*Attorney for defendant City of New York*  
100 Church Street,  
New York, New York 10007  
(212) 442-0832

By: \_\_\_\_\_

HUGH A. ZUBER (HZ 4935)  
Assistant Corporation Counsel

TO: Richard Southard, Esq.  
115 Broadway, Suite 1703  
New York, New York 10006